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Samplonius-Raut, Shilpa

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**The dispute initiators of the GATT and the WTO:
lessons for the future to improve accessibility, sustainability, and relevancy of the WTO**

Shilpa K. Samplonius-Raut¹

Abstract

The dispute initiators of the WTO and its predecessor the GATT play important role in keeping this institution relevant as the act of dispute initiation show the extent of active use of the system by its members to maintain the objective of the WTO. This paper investigates the use of dispute settlement by the members in terms of dispute initiations with the help of a newly compiled database that allows easier comparison between the dispute initiators during the WTO and its predecessor, the GATT. The exploratory results are based on the descriptive analysis that show the increasing number of disputes against the lower-income countries indicating their integration into the global trade system. The results reveal patterns, which show strong ties to the income of the members and other dimensions contributing to bilateral trade. This implies among others that the richer members with the US in the lead do not only initiate more disputes, but also get confronted with more number of disputes. The transformation from diplomacy-oriented GATT to the rule-oriented WTO has maintained this pattern. This result is clashing to the purpose of the procedurally sophisticated and legally refined WTO that was designed to improve access to all members. These are a few clear indications of the needed changes in the dispute settlement. The possible areas of modifications in the existing structure could be the in the broadening role of third-party, the digitization and extension of services of advisory council on WTO law. The paper makes case for these reforms, which may contribute to enhance the inclusiveness and help the WTO to become time relevant to serve its members better.

Keywords: dispute initiation, WTO, income classification, economic law

JIL classification: F01 F13, F14, F20, O10, Y01

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Introduction

The formative years of the second half of the 1940s saw a rise in a few vital international institutions like the United Nations and the North Atlantic Treaty Organization. The one institution that would change the economic life of the citizens in the member countries was unquestionably the General Agreement on Trade and Tariffs (GATT), a treaty which was signed by 23 countries² in 1948 establishing a multilateral agreement, the GATT. The contracting parties of the GATT continued to meet, negotiate and improve upon the system. Incorporating the GATT experience in the process of a gradual transformation from the GATT to the new multilateral organization, the World Trade Organization (WTO), was a complicated, hard and a delicate work that took several negotiation rounds³ spread over a few decennia to put forward a landmark in the multilateral international economic law which resulted in a comprehensive, more accessible multilateral organization to cater the need for all member countries, including those with lesser economic power.

Over the years the membership of the WTO continued to rise, from 128 at the onset of the in 1995 to 164⁴ members as of December 2019 covering 98% of the total world trade. The WTO covers the global rules of trade among the member countries strives to ensure free, smooth, predictable flow of trade. It is this global trade regime across the members, irrespective of the economic status, striven by the WTO that has made this institution as the bearer of the character of the global public good by Kaul(2001)⁵.

To be relevant and inclusive removing the bottlenecks of the GATT system was important and the transformation brought a rule-oriented dispute settlement rather than diplomacy oriented GATT system of dispute settlement. This formalization was expected to

² 23 countries engaging in the Geneva negotiations that led to the signing of the GATT in 1947 were Australia, Belgium, Brazil, Burma (Myanmar), Canada, Ceylon (Sri Lanka), Chile, China, Cuba, Czechoslovakia (Czech Republic and Slovakia), France, India, Lebanon, Luxembourg, Netherlands, New Zealand, Norway, Pakistan, South Africa, Southern Rhodesia (Zimbabwe), Syria, United Kingdom, and United States(WTO & History, 2018). It should be noted that only 18 of these countries were the members during the year 1948. Chile joined in 1949. Lebanon, Syria, China did not join the GATT. While China joined under the WTO in 2001 Lebanon and Syria are in accession process. Czechoslovakia joined in 1993 as two separate GATT members namely the Czech Republic and Slovakia.

³ The scope of GATT also widened: during 1948-1967 it encompassed only tariffs, between 1968-1978 it included tariffs and anti-dumping. From 1979-1994 it included: tariffs non-tariff measures, and "framework" agreements and in 1995 with the establishment of the WTO it encompassed trade in goods and, services, Intellectual Property Rights (IPR), and Trade-Related Investment Measures (TRIMS).

⁴ A list of all the members with the date of accession is provided in appendix 1.

⁵ Global public goods (GPG) can be characterized as multi-level process, requiring policy action at the national, regional and global levels. It involves input at international level but the domestically executed policy initiatives undertaken, by several nations. No single nation, however powerful, can produce these goods on its own. An adequate provisioning of GPGs is ever-more important to development. The development cooperation and international cooperation in support of GPGs, irrespective of the status of the members are closely intertwined. The preferences for GPGs, as well as various aspects of development, vary across countries. These divergences call for measures of 'incentive tipping' in order to align countries. For more reading refer to discussion papers of German Development institute by Kaul (1999, 2001).

lower the threshold for the less powerful members to initiate disputes (Zahran 1995; Bown 2004a). In other words, the number of disputes initiated by the low income countries should increase under the WTO.

Accordingly, the central question is formulated as: Who are the initiators of the GATT and WTO? The answer to the question also unfolds the effect of the formalization of the DSU procedure in terms of the dispute initiations by the poorer members of the WTO with respect to the GATT. Additionally, it provides the stylized features of bilateral pairs in a dispute with the help of a few selected political and economic dimensions during the period of 1948 to 2016 with the help of a newly compiled dataset that facilitates the comparison between the GATT and the WTO dispute initiations.

A quick look in the data shows that while in 1948 there was only one dispute across the continents, the onset of the WTO illustrates that it is not only the number of filed disputes that has gone up but also the dispersion of the disputes across the WTO members and the continents. This dispersion across the members is a key point as it evidences the increased accessibility of the WTO to its members which could be a consequence of the transformation from the GATT to the WTO that is commensurate with the formalization of the Dispute Settlement Unit (DSU). Moreover, the GATT/ WTO is a member-driven organization and that makes the aspect of accessibility to all of the members essential in order to ensure its success and sustainability (Baldwin & Nakatomi, 2015). The increasing number of disputes shows that they continue to be the instrument in force for the members to safeguard their own trade interests. This makes the members' role⁶ as the dispute initiator⁷ of utmost importance because it is the most active role that a country can play to safeguard its own trade interests. After all, the countries join the WTO because its major advantage is that it is the organization that has trade and trade-related policies at its centre (Bown and Hoekman, 2004).

A unique of its kind the dispute settlement of the WTO refined the legal procedures in various directions and areas. The defendant⁸ was no longer protected owing to requirement of

⁶ A member country may participate in the DSB in various roles, for example, as a complainant, respondent, third parties, panel member, and appellate body members.

⁷It should be noted that the dispute initiation is just the first step. It is the settlement of the dispute that matters to a dispute initiating country. A dispute can be settled in several ways, which is out of scope for this paper. For now, it suffices to say that all GATT disputes for which panel reports were adopted are considered as settled and otherwise. During the WTO, a dispute is considered to be settled when a respondent country has complied with panel ruling, or when a dispute has a mutually agreed solution.

⁸ The role of a respondent is a reactive role because it needs to defend itself after it faces a complaint. The role of a third-party is an induced active role because a country that is interested in participating as a third-party needs to provide evidence of substantial interest in the case, but this role does not involve complicated procedures or substantial costs.

positive consensus. The WTO tackled this issue by employing the requirement of negative consensus⁹. This was to do away with the influence of powerful rich nations. The rule-bound, time stipulated procedure was expected to make the dispute settlement system more accessible to lower-income countries. Though the differences between the GATT and the WTO are numerous, this paper limits itself to the key differences necessary from the point of view of a member country, and hence potentially a dispute initiator¹⁰. The reason for the emphasize will be clear as we move further in this section, which shows that the role of a dispute initiator is the most active role that keeps the DSU running for a greater good of trade with a minimum and or transparent barriers.

The main purpose of the GATT is to strengthen international trade. The GATT members were designated as the contracting parties. The scope of the GATT was mainly listed to trade in goods. The main purpose of the WTO, that was established in 1995, is to govern GATT and international trade practices. It also marked a widening of scope from tariff to other non-monetary measures subjects. A dispute initiating member country during the GATT had to file a dispute to a permanent appellate body. This body was expected to review findings of the panel and settle disputes, but there was no permanent structure or framework. The method employed was diplomatic and a full consensus was required. Moreover, the nature of the procedure was Ad-Hoc without any fixed time path. The procedural power base was more biased towards the defendant, which could veto ratification procedure in order to avoid complying with the findings of the panel.

Gal-Edd (1961) titled his book on GATT as “Is GATT a Rich Man’s Club?”. He concludes his book by providing an affirmative answer to the question asked in the title of the book. The use of GATT by the rich nations was acknowledged and measures to do away with power were taken and are reflected in the DSU procedures of the WTO. The essence of this change can be captured in one statements from the speech on the eve of the WTO era, “As we now move away from the GATT into the WTO, all partners have undertaken to comply with a strengthened rule-based system” (Chair of the GATT, Mr. Zahran, WTO 1995).

⁹ The dispute settlement board (DSB) is the administrative body of the dispute settlement unit (DSU) establishes panels, when it adopts the reports of panel and Appellate Body and authorizes retaliation, the DSB must approve the decision unless there is a consensus against it (Articles 6.1, 16.4, 17.14 and 22.6 of the DSU). This special decision-making procedure is commonly referred to as “negative” or “reverse” consensus (section 3.1 www.wto.org).

¹⁰ For a more detailed in-depth differences between the GATT and the WTO refer to WIDER, WP 195 (2000),. Crowley (2003) and the WTO website.

The WTO member countries join the WTO and take voluntarily an obligation to contribute to the stability of a global economy by following rules that govern the external and internal trade policy and contribute to fulfil the main function of the WTO. The main function of the WTO is to maintain trade flow that is running as smoothly, predictably and freely as possible. The WTO is thus of vital importance and potential key player toward global governance (Lamy, 2005)¹¹. The WTO provides the necessary facilities that ensure global governance on trade matters (WTO, 2014). Any detected breach or deviation from the GATT/WTO rules can be disputed at the DSU. This makes the DSU central pillar of the WTO. A trade dispute is a vital instrument for enforcing the WTO rules to ensure the flow of trade runs smoothly among the member countries. A dispute at the DSU, thus functions as a signal to the WTO, where a complainant country notifies an exact breach of a rule by another country, a respondent country. Subsequently, the DSU helps to rectify the breach through a panel ruling. That makes the DSU a heart of the WTO system. A dispute imitating country plays a vital role as it provides a signal through disputes to regulate the world trade system by initiating a procedure to remove the obstacles to keep the trade flowing.

The WTO has a permanent structure with a permanent framework, the secretariat being an institutional backbone and serving as an institutional memory. It maintains a list of potential panel members submitted by the member countries and proposes nominations for the panel to the disputants. Its scope is wider than the GATT, which dealt only with trade in goods. The WTO rules include trade in services and trade-related aspects of intellectual property rights.

Place in the literature:

There is ample literature about the participation of the WTO members in the DSU (Horn, Mavroidis, & Nordström, 1999; Shaffer, 2003; Bown, 2004; Horn, Johannesson, & Mavroidis, 2011). In addition, there are yearly reports by the WTO and regular publications of statistical analyses by Leitner and Lester (2007, 2011). To this date, however, it remains unclear to what extent the participation of the members has increased under the WTO with respect to the GATT and whether it has been able to increase the participation of the low-income countries as dispute initiators over the years. One of the reasons for this could be that

¹¹ Mr. Lamy the Director General, WTO in 2005 retrieved from https://www.wto.org/english/news_e/sppl_e/sppl12_e.htm

most of the studies and reports¹² analyze the member countries according to their development status and hence fails to allow making a strict distinction between the low- and high-income countries¹³.

This paper deviates from earlier studies in several aspects. Firstly, the paper extends the period of investigation (from 1948 to 2016) which allows the comparability between the GATT period and the WTO period. Secondly, deviating from large parts of previous literature on the participation of the members in the DSU, the paper employs a World Bank (WB) analytical income classification that allows considering the changes in the income status of the members over the years¹⁴. Lastly, the paper uses rich, self-compiled data that are arranged by complainant-respondent-year-dispute quadruplet¹⁵.

The remainder of this paper is structured as follows. Section 1.1 describes the self-compiled dataset on disputes that were initiated during the GATT and the WTO period from 1948 to 2016. Section 1.2 describes data and a few selected dimensions for the stylized features such as economic integration and the political system. Section 1.3 presents the stylized features of the disputes data. Finally, Section 1.4 discusses the results and concludes.

¹² The periodical reports by Leitner & Lester take into account disputes from 1995 onwards and do not assess the participation in terms of income status.

¹³ The WTO does not have its own definition; the UN publishes the list of countries with development status. Strictly speaking, the term developing countries includes not only low-income countries but also high-income countries like Brunei and upper-middle income countries like Brazil. This paper does not focus on the definition of developing countries, as such, but on countries' classification as low-income countries and lower- middle-income countries. This is an advantage in the sense that a country's income classification is objective, whereas countries' self-reported claims regarding their development status may be (geo)politically motivated.

¹⁴ For example, until 2007 India was classified as a low-income country, after which it was graduated to the status of lower-middle income country. Brazil, classified as Upper-middle income country for most of the period, has seen a change in income status to lower-middle income country, for example during 2003-2005.

¹⁵ Data arranged by complainant-respondent helps to analyse the by country-pairs, as the trade relations and trade-flows are bilateral.

Text box 1.1 provides an example of a dispute case.

Text Box:1.1 A dispute case by Sri Lanka

Coconut is one of the major plantation crops in Sri Lanka and accounts for approximately 12% of all agricultural produce there. With a total land area under cultivation of approximately 395,000 hectares, which is equivalent to about 2,500 million nuts are per year, coconut is clearly a product of commercial importance for this island. This is the most important reason why Sri Lanka showed interest toward reserving the rights as a third party when, on 27 November 1995, the Philippines requested consultations with Brazil in respect of a countervailing duty imposed by Brazil on the Philippines' exports of desiccated coconut. The Philippines claimed that the Brazilian duty was inconsistent with WTO and GATT rules (DS 22). Subsequently, on 23 February 1996, Sri Lanka filed a similar but separate complaint against Brazil by requesting consultations with Brazil concerning imposition of countervailing duties on Sri Lanka's export of desiccated coconut and coconut milk powder. Sri Lanka alleged that those measures are inconsistent with GATT Articles I, II, and VI and Article 13(a) of the Agriculture Agreement (DS 30).

At the DSB, every dispute is treated as a separate case, and the ruling of one case does not automatically apply to the other party. The settlement of the DSB is binding on the WTO member countries, though it is of self-enforcing nature. In this light, the decision of Sri Lanka to file a separate complaint could be considered as being rational. These two dispute cases are unique mainly because they are filed by the countries that are economically developing.

As far as the outcomes of these two cases are concerned, the case filed by Sri Lanka (DS 30) at the WTO has a current official status of 'in consultation' implying that it is still not settled. On the other hand, the dispute case of the Philippines is resolved (DS22); the status is that the Report(s) has been adopted and no further action is required.

(Based on information on the cases from the WTO website)

1.2) Data and rationale of dimensions

This paper intends to ascertain the effect of the formalization of the DSU procedure in terms of the dispute initiations by the poorer members of the WTO with respect to the GATT.

Additionally, it provides stylized features of bilateral pairs in a dispute with the help of a few selected economic and political dimensions during the period of 1948 to 2016. This section provides information about the data and discusses the rationale and dimensions that are used to describe features of bilateral pairs.

1.2.1) The data on disputes

The disputes under the GATT date from 1 January 1948 to 31 December 1994. The 132¹⁶ recorded cases by Hudec¹⁷ include those during the transitional period from the GATT to the WTO¹⁸. The splitting of the EU into bilateral cases gives rise to 735 bilateral GATT disputes. The disputes under the WTO date from 1 January 1995 to 31 December 2016. The WTO dataset covers all 518 disputes that were initiated through the official filing of a request for consultations at the WTO. The 518 cases, when split bilaterally and considering the EU as one entity, totals 548 disputes. The splitting of the EU into bilateral dispute cases gives rise to 4024 bilateral WTO disputes. Table 1.1 summarizes the total number of dispute records.

The data used in this paper is a part of the self-compiled database. A user's manual of dataset will be provided in Web Appendix¹⁹. Though the newly compiled dataset bilaterally splits all of the disputes, the descriptive analysis in this paper considers not only the bilateral pairs but also the uniquely initiated disputes. The reason for this is that the EU files disputes as one economic entity and defends them as one respondent²⁰. The EU cases at the DSU are not considered as cases of multiple disputants. The unit of analysis in this paper, therefore, is at the economic entity level. Practically, it means that the participation of the countries at the DSU of the GATT and the WTO is determined at the country-pair level except for the EU. This because the EU files the disputes and defends the dispute against it as one economic entity.

¹⁶ The three GATT cases coded as DSG 97, DSG 99, and DSG 102, Job Development Tax Credit, Border Tax Adjustments and UK – Temporary Import Charges are not the bilateral complaints but GATT examinations and do not have the dispute relevant data. They are included in the database but are irrelevant for the dispute case analysis.

¹⁷ Robert E. Hudec is considered as the founding father of international economic law. He was the first to compile the data on GATT disputes which are publicly and available on the websites of world trade law and the WTO. The date of his database compilation is uncited on either sites.

¹⁸ Using the twofold arguments about the consistency of the source and emphasizing on a cleaner break from the GATT to the WTO era, Maggi and Staiger (2013) choose to exclude the cases during the transitional period from 1990 to 1995 from the analysis. DS3, DS16, DS52, DS101, DS106, DS185, DS228, DS271, as they are handled in DS41, DS27, DS65, DS132, DS126, DS187, DS230, DS270, respectively. The case DS 152, which is the same as DS16, DS27 is considered for a reason that is not known.

¹⁹ User's manual is Work in progress

²⁰ This also helps to give an 'unbiased' picture of the income status of the disputants. Most of the EU members are classified as high-income countries. Greece, that joined the EU in 1981, was classified as an upper middle-income (UM) country until 1995. At present, there are only two countries, viz. Bulgaria and Romania that joined the EU in 2007, that are classified as UM countries by the World Bank.

The compiled data are country-pair level. This allows that, when the analysis considers the dimensions such as the contiguity and the political system, the data at country-pair level becomes handy. The EU disputes are split into bilateral-pair level and that gives a count of 4730²¹ disputes.

Table 1.1: Number of dispute records

Era	Years	Recorded disputes	Bilateral cases (with the EU as one entity)	Bilateral cases (with EU split)
GATT	1 January 1948 - 31 December 1994	132	177	735
WTO	1 January 1995 - 31 December 2016	518	548	4024
Total	1 January 1948 - 31 December 2016	650	725	4759

1.2.2) Dimensions

This paper uses a few selected dimensions to provide an insight into the characteristics of dispute initiators under the WTO with respect to the GATT. The WTO deals with trade and the DSU disputes are related the breach of trade rules, therefore the use of trade contributing factors for the analysis is obvious. The use of income-status and other geo-political dimensions find the rationale in the standard gravity model of bilateral trade²². The dimensions in the gravity model vary from economic to geo-political factors (Head & Mayer, 2013b). Research has shown a clear positive relationship between GDP and rule of law (Kaufmann, Kraay, & Mastruzzi, 2011). It is common in the WTO literature to use the gross domestic product (GDP) or other derived dimensions like the GDP per capita²³ as a proxy for the legal capacity of a country (Horn et.al. 1999; Bown, 2005). The skewed use of the DSU by high-income countries was ascribed to the high export intensity of the high-income by Horn et.al (1999).

Accordingly, the paper uses the World Bank classification of countries into four income categories, which is explained in Table 1.2. Though such a classification²⁴ is based on

²¹ The number is smaller than the total of 4759 due to the availability of the data.

²² It essentially explains (the natural logarithm of) trade with (the logs of) the distance between the countries and their joint income. This basic model is often augmented in the literature with some extra conditioning dimensions that affect trade. These dimensions account for as many extraneous factors as possible, for example, the historical connection or the location of a country (Head & Mayer, 2013a) – update this reference

²³ Data source: GDP per capita by Maddison <http://www.ggdcc.net/maddison/maddison-project/data.htm> and the merchandise export share, pwt (9.0) <http://www.rug.nl/ggdcc/productivity/pwt>;

²⁴ This classification line is adjusted yearly; for example, for the year 2013, all of the countries with per capita income \leq \$1,045 were labelled as L, the countries with the per capita income range between \$1,046-\$4,125 and \$4,126-\$12,745 were classified as LM and UM, respectively, whereas all of the countries that enjoyed per capita income $>$ \$12,745 were classified as H. The World Bank provides classification for the years from 1987 to 2012. For the years prior to 1987, the classification of 1987 is taken as the reference year whereas, for the years from 2013-2016, the year 2012 is taken as the reference year. Every year, the World Bank publishes the categorization of the countries by gross national income per capita. The analytical classification of the World Bank (GNI per capita in US\$ Atlas methodology)

income, it still indicates more than just a numerical cut-off line²⁵. Another way of classifying the member countries is based on deciles of income. The deciles sort the data into ten equal parts. A higher place in the decile ranking denotes higher income.

Apart from the income-classification, the paper also classifies the member countries into the continents²⁶. Accordingly, the countries are divided as they appear in the World Atlas²⁷. Additionally, a complainant country can be contiguous to the respondent country or otherwise. This is captured with a dyadic dimension contiguity. The data on contiguity is drawn from Mayer & Zignago (2011). Their data is also a source of the data on colonization.

Another dimension that is considered is the extent of economic agreement between the bilateral pairs. During the GATT period alone, the number of notified regional trade agreements (RTA) amounted to 124 and, since the WTO, the number of notifications has increased to 400 (RTA-IS, 2017)²⁸. The use of a tariff rate can be justified on the grounds that most of the 20th century regional and multilateral agreements focussed on tariffs and other border measures (Baldwin, 2014). An additional reason for the use of tariff rates is owed to the most fruitful result of the Uruguay round, namely, the commitment of the member countries to cut the tariff rate²⁹ and to “bind” custom duty rates to levels that are difficult to raise (WTO, 2017). However, it should be noted that the import tariffs in developed countries tend to be lower than in developing countries (WTO, 2017)³⁰. The bilateral dataset on an economic integration agreement is drawn from the publicly accessible Bergstrand (2017)³¹, and the data on tariff rates are drawn from the World Bank Economic Indicators (2017).

The rationale for political dimensions is rooted in the theory of structure of trade protection that links the political contribution of the lobbyists to the trade policy (Grossman, and Helpman, 2007). Furthermore, a national government is the only entity that is allowed to file a dispute at the WTO hence an internal dimension, such as the political system, is

provides information from the year 1987. During this period, some of the countries have moved upwards in the income classification. For the same country, it is not possible to allocate more than one income status, so the final income status of the countries as of 1994 for the GATT cases and as of 2014 for the WTO cases is taken. To give an idea about the countries with an L status that complained under the GATT: Cuba, Malawi, Nicaragua, Pakistan, and Zimbabwe. Under the WTO, Bangladesh, Honduras India, Indonesia, Nicaragua Pakistan, and Sri Lanka.

²⁵ Another relevant justification to use the GDP is the positive but statistically non-significant relationship between the relative contribution of non-tariff measures to the overall level of protection and the level of GDP per capita (World Trade Report 2012).

²⁶ There could have been other criterion for the classification based on the regional proximity like the Middle –East or free trade zone like NAFTA. However, the extent of the cooperation and economic integration differs and, to provide an overview of the distribution of the disputes across the continents, the geographical location serves the purpose.

²⁷ Geographically, North-America includes the central American countries. The number in brackets show the number of countries in each of the continents as published in December 2014 on educational resources website world atlas. Africa (54) Asia (44), Australia Oceania (14), Europe (47), North America (23), and South America (12) of which 42, 33, 8, 42, 22, 12 countries are the WTO members, respectively. <http://www.worldatlas.com/cntycont.htm>

²⁸ Regional trade agreement information system (RTA-IS) of the WTO . Accessed October 2017.

²⁹ Tariff is the duty that is charged on imports, and the most visible indicator of protectionism is the tariff data.

³⁰ Paper 6: Developing countries: How the WTO deals with the special needs of an increasingly important group.

³¹ The dataset indexes the amount of trade openness on a scale from one to six between every country pair between 1950 and 2012. The source of ranking of Economic Integration Agreement(EIA) <https://www3.nd.edu/~jbergstr/>

essential to characterize the dispute initiators. A political system represents the extent of influence of the citizens on the election of the head of the state. This essentially captures the relationship between the executive and legislative branch of the government and the competitiveness of elections of political actors (Cruz, Keefer, & Scartascini, 2016). Another political dimension relates to the form of democracy. The plurality form of democracy indicates a system of a majority-based election in a country. This form of democracy is supposed to be more susceptible to the majority mass opinion and is thereby subject to the disproportional influence of the local constituencies than is the system of proportional representation (Persson & Tabellini, 2004). The political data is drawn from the Database on Political Institutions (Keefer, 2012). The explanation of the used dimensions is placed in Table 1.2. The sources of all dimensions are summed up in the list of data sources after the references.

Table 1.2: Dimensions and definitions

Dimension	Definition/ explanation
Income classification	four income categories: low-income countries (L), lower-middle-income countries (LM), upper middle-income countries (UM), and High-income countries (H) Deciles: The 10 th , 20 th , 30 th , 40 th , 50 th , 60 th , 70 th , 80 th , 90 th , and 100 th percentiles. Considering the ten categories, the paper chooses to restrict, in most of the cases, to the World Bank classification of four categories
Continent	The complainant and respondent countries are divided into six continents: Africa, Asia, Europe, North America, Oceania, and South America
Contiguity	Whether the complainant and the respondent are the adjacent countries, 0= non-contiguous and 1= contiguous
Colonization	Whether the complainant and the respondent have ever been in colonial relations, 0= No and 1= ever in colonial relation
Political system	The political system of a complaining country indicates the power of the president through an election. The election of the president: direct/ electoral college=0, assembly elected=1, or parliamentary=2
Plurality	The type of democracy: plurality=1, Non-plurality=0
Economic Integration	Rankings level of economic integration: 0 = "No Agreement", 1 = " Non-Reciprocal PTA", 2= "Preferential Trade Ag", 3= "Free Trade Agreement" 4 ="Customs Union", 5="Common Market"
Tariff	Tariff rate is the applied, simple mean of all products (%). The paper compares the tariff rate of a complainant with respect to the respondent. It assumes value =2 when a complainant has a higher tariff rate than the respondent, 0 when equal, and 1 when complainant has a lower tariff rate than the respondent.

1.3 Results

The purpose of this descriptive research was to ascertain the participation status of the members under the WTO (1995-2016) with respect to the GATT (1948-1994). This section presents the graphs and tables to illustrate the extent of participation before moving to the other dimensions such as the contiguity and the tariff.

1.3.1 Number and extent of the participation

Table 1.3 provides the information on the number of member countries that have ever participated in the dispute either as a complainant or as a respondent during the period under consideration. The first 4 columns show the participation of the member countries during the GATT period and the Columns (5)-(8) provide information about the participation during the WTO as complainants and respondents. The rows specify the role of a respondent or a non-respondent. This gives rise to four quadrants, Q1, Q2, Q3, and Q4. Quadrant 1(Q1) shows non-complainants and respondents; in other words, the quadrant shows induced active members. Quadrant 2 (Q2) indicates most active members, Quadrant 3 (Q3) shows complainants and non-respondents, i.e., dispute initiating members alone. Quadrant 4 (Q4) shows non-complainant and non-respondent members, i.e., the most passive members. The figures in parentheses indicates the number and percentage under the GATT. Q2 demonstrates that there are 34 countries that are the most active countries under the WTO while that number was 23 under the GATT. Q4 denotes that most of the countries under the WTO, 97 out of 164 (59%) as of December 2016, have not participated in the disputes either as a complainant or as a respondent. Percentage wise, the number of passive members is fewer than under the GATT that counted 64.8% passive members.

Table 1.3. Participants quadrant

Column (1) GATT	Column (2) As of December 1994	Column (3)	Column (4)	Column (5) WTO	Column (6) As of December 2016	Column (7)	Column (8)
	GATT Complainants	GATT Non complainants	Total GATT countries		WTO Complainants	WTO Non complainants	Total WTO Countries
GATT Respondents	Q2: 23(17.9%)	Q1: 7(5.3%)	30	WTO Respondents	Q2: 34 (20.7%)	Q1: 20 (12.2%)	54
GATT Non Respondents	Q3: 15(11.7%)	Q4: 83(64.8%)	98	WTO Non Respondents	Q3: 13 (7.9%)	Q4: 97 (59.1%)	110
Total	38	90	128	Total	47	117	164

GATT Until December 1994, as per publicly available GATT records as of December 2016. For the WTO as of December 2016.
Source: (Authors calculation)

Table 1.4 lists the fifteen most frequent dispute initiators that belong to Q2 in a previous table. The first two columns show the participation of the members under the GATT. Columns 4, 5, and 6 depict the participation of the active countries under the WTO as complainants, respondent, and the third parties, respectively.

Table 4 indicates that the first four frontrunners, viz. the US, the EU, Canada, and Brazil, during the GATT continue to maintain their active role during the WTO. Moreover, these frequent users of the DSU as the disputants also actively participate as a third party country. The number of cases in which the members participate as third party exceeds those for all of the countries.

Table 1.4. Most active participant countries

Column (1)	Column (2)	Column (3)	Column (4)	Column (5)	Column (6)
GATT/ WTO member country	Total GATT cases as complainants	Total GATT cases as respondent	Total WTO cases as complainant	Total WTO cases respondent	Total WTO cases as third-party
United States	42	38	114	130	140
European Union (formerly EC)	19	28	97	84	166
Canada	15	13	35	20	120
Brazil	7	2	31	16	112
Mexico	3	0	24	14	82
India	1	1	23	24	128
Japan	2	4	23	15	171
Argentina	1	0	20	22	60
Korea, Republic of	0	4	17	16	113
China	N.A.	N.A.	15	39	140
Thailand	1	1	13	4	73
Indonesia	0	0	10	14	21
Chile	5	0	10	13	45
Guatemala	3	0	9	2	37
Russia	N.A.	N.A.	6	7	37

(source: Authors compilation)

1.3.2 Nature of participation and the Income status

The WTO recognizes an additional role of third party³². The possibility of the member countries participating as a third party has enhanced the participation of all of the members. Table 1.5 depicts the number of countries according to income status and nature of participation of all of the members under the GATT (1948-1994) and WTO (1995-2016). It demonstrates the widespread use of participation in the role of a third party not only among the low-income countries but also among the members from other income categories.

Table 1.6 answers the question ‘who complained against whom’ considering the income status of the complainant and the respondents. The first column shows the income status of the complaining countries while the second third, fourth, fifth columns indicate the L, LM, UM, and H income status of the respondent countries, respectively. The first part of Table 1.6 provides information related to the GATT, and the second part of the table provides the same information for the WTO.

Under the GATT, 51% (90 out of 177) of the total disputes were those between high-income countries. That percentage decreased to 36% (195 out of 548) under the WTO. While the lower-income countries (L and LM) accounted for 3% of the disputes against high-income countries during the GATT, that share has increased to 11% under the WTO. Under the GATT, there were just 19,2% (34 out of 177) of the disputes that were initiated by the lower-income countries. That percentage shows an increase to 36.5% (200 out of 548) under the WTO. Under the GATT, high-income countries faced 92% of the total disputes. They faced 162 disputes in total out of which 20% (33 out of 162) were initiated by the lower-income countries. That percentage remains the same under the WTO (65 out of 325). Under the GATT, the lower-income countries faced just 3,4% (6 out of 177) of the total disputes. Under the WTO, that number has increased to 101 cases out of 548, i.e., 18%. The total number of disputes initiated by the lower-income countries shows a marginal increase from 19.2% (34 out of 177) to 19,3 % (106 out of 548). Nevertheless, if one considers the disputes filed by the UM countries, 18% of the disputes have been against the lower-income countries.

³² There are some GATT disputes, for example, in 1992, when the United States imposition of countervailing duties on imports of fresh and chilled Atlantic salmon from Norway, the EEC reserved its right to present its views to the panel as an interested third-party.

Table 1.5 Income status and participatory roles under the GATT and the WTO

Column (1)	Column (2)	Column (3)	Column (4)
Income classification	GATT until Dec. 1994	WTO until Dec 2016 without Third- party participation	WTO until Dec 2016 with Third party participation
H	26 (20.3%)	33(20.1%)	42 (25.6%)
UM	12 (9.3%)	18(10.9%)	28 (17%)
LM	4 (3.1%)	15(9.1%)	24 (14.6%)
L	3 (2.3%)	1(0.6%)	8 (4.8%)
Lower=L+LM	7 (5.4%)	16 (9.7%)	32 (19.4%)
Total number countries participation	44 (34%)	67 (40.8%)	102 (62%)
Total number of member countries	128 (100%)	164(100%)	164(100%)

Table 1.6 Who complained against whom in light of the income status

Panel A Table GATT					
Column (1)	Income of the respondent GATT (% in parentheses)				
Income of the complainant	Column (2)	Column (3)	Column (4)	Column (5)	Column (6)
GATT	H	UM	LM	L	Total
H	90 (51)	8 (5)	2 (1)	3 (2)	103 (58)
UM	39 (22)	1 (1)	0	0	40 (23)
LM	29 (16)	0	0	0	29 (16)
L	4 (3)	0	0	1 (0.5)	5 (3)
Lower income (L+LM)	33 (19)	0	0	1(0.5)	34 (19)
Total	162(92)	9 (5)	2 (1)	4 (2)	177 (100)
Panel B Table WTO					
Column (1)	Income of the respondent WTO(% in parentheses)				
Income of the complainant WTO	Column (2)	Column (3)	Column (4)	Column (5)	Column (6)
WTO	H	UM	LM	L	Total
H	195 (36)	67 (12)	38 (7)	20 (3,6)	320 (58)
UM	65 (11,8)	31 (5,6)	25 (4,6)	1	122 (22)
LM	48 (8.7)	17 (3)	11 (2)	2(0.3)	78 (14)
L	17 (3)	7 (1,2)	3 (5)	1(.18)	28 (5)
Lower income (L+LM)	55(11.7)	24(4.2)	14 (7)	3 (0.5)	106(19)
Total	325 (59)	122 (22)	77 (14)	24 (4.3)	548 (100)

To provide a better idea about the contrast, take a look at Table 1.6.1. It provides similar information but classifies the disputants in terms of decile ranking of income. It can be seen that the lowest 30% of the members are hardly active as a complainant, but they have filed a dispute against the countries that belong to the the highest 20% . The members in the income category of the lowest 20% have not faced any disputes.

Table 1.6.1. Who complained against whom in light of the income deciles

GDP decile ranking of complainant/ Respondent	3	4	5	6	7	8	9	10	Total
1	0	0	0	0	0	0	0	1	1
2	0	0	0	0	0	0	0	1	1
3	0	0	0	0	0	0	5	30	35
4	0	0	2	0	2	4	11	35	54
5	1	2	4	8	9	27	44	175	270
6	0	2	5	6	10	31	54	146	254
7	1	1	8	4	8	26	43	190	281
8	4	3	17	11	21	58	92	484	690
9	7	7	28	18	34	92	111	501	798
10	19	19	95		121	343	395	1,082	2,148
Total	32	34	159	121	205	581	755	2,645	4,532

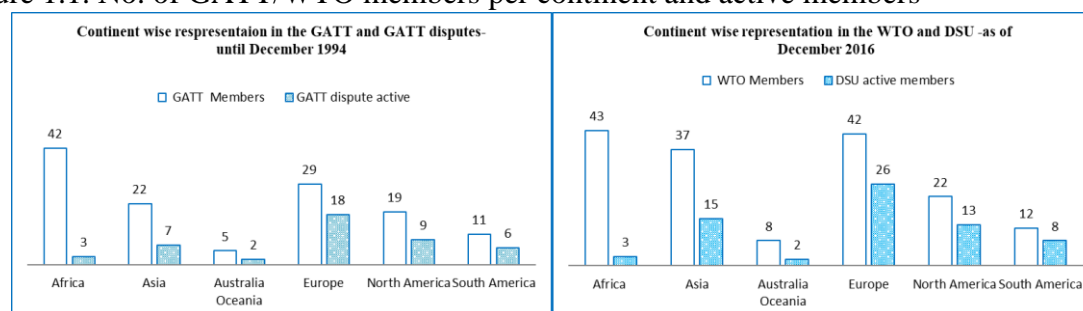
1.3.3) Continent, contiguity and colonial relation between the disputants

The number of low-income countries that are a member of the WTO differs per continent. All of the countries in North America are members of the WTO, and there is only one country that is categorized as a low-income country, viz. Haiti. The continent of Asia has six low-income countries³³ that are a member of the WTO while the continent of Africa has 25 WTO members that are categorized as such.

Figure 1.1 shows that the number of active countries differs per continent. With 66% of the South-American members having participated actively in the DSU makes it the most active continent. Sixty two percent of the European members are active not only under the GATT but also under the WTO. The participation of Asian members has increased from 31% under the GATT to 40% during the WTO.

Table 1.7 shows the continent wise representation of the countries as the complainants and the respondents. The first column shows the continent. The second and third columns show the total number complainants and the respondents under the GATT during the period from 1948 to 1994. The last two columns provide the same information for the WTO period from 1995 to 2016. It shows that, while the North American share of disputes has almost doubled under the WTO, the African complainants have yet to find their way in it. The share of Asian dispute initiators has gone up during the WTO era in comparison with the GATT era while the African continent has seen its share of respondents growing³⁴.

Figure 1.1. No. of GATT/WTO members per continent and active members



³³ Asian low-income countries: Afghanistan, Bangladesh, Cambodia, Laos, Myanmar and Nepal. African Low-income countries: Angola, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Congo Democratic Republic, Djibouti, Gambia, Guinea, Guinea-Bissau, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nigeria, Rwanda, Senegal, Sierra Leone, Tanzania, Togo, and Uganda.

³⁴ African respondents: Egypt, South Africa, and Morocco.

Table 1.7. DSU participation at the continent level

Column (1)	Column (2)	Column (3)	Column (4)	Column (5)
Continent	complaints under GATT	respondents under GATT	complaints under WTO (until Dec 2016)	respondents under WTO (until Dec 2016)
Africa	3 (1.7)	0	0	10 (1.8)
Asia	8 (4)	15 (8.5)	132 (24)	139 (24)
Oceania	5 (2.8)	2 (1)	119 (21.7)	15 (2.7)
Europe	43 (24)	93 (53)	200 (36)	132 (24)
North America	70 (39.5)	65 (37)	22 (4)	185 (33)
South America	48 (27)	2 (1)	75 (13.6)	67 (12)
Total	177 (100)	177 (100)	548 (100)	548 (100)
(% in parentheses)				

(Source: Authors calculation)

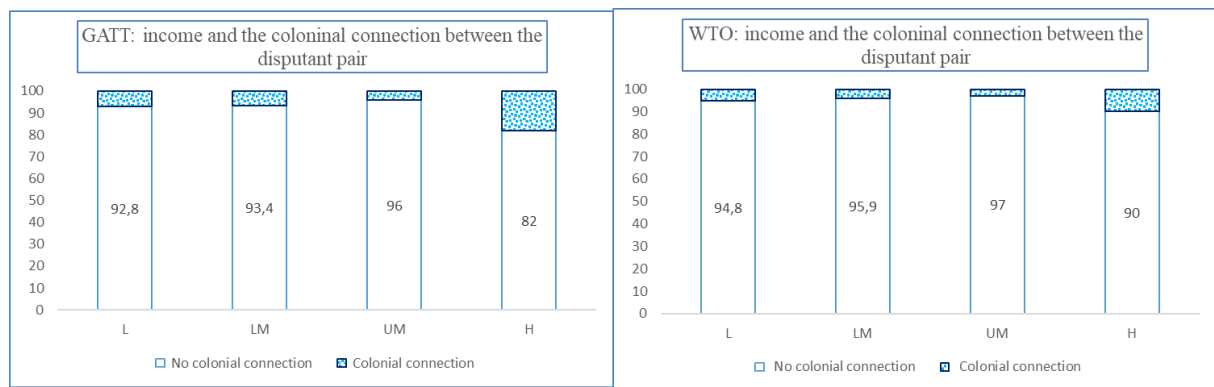
Table 1.8 draws attention to a high number of disputes between the non-contiguous bilateral pairs in relation to the total disputes. During the GATT period from 1948 to 1994, 96,5% (710/735) of the bilateral disputes occurred between the non-contiguous countries. During the WTO period from 1995 to 2016, 97,2% (3884/3995) of the bilateral disputes took place between the non-contiguous countries. Furthermore, Table 1.8 shows that irrespective of the income status of the complainants, the high percentage of a non-contiguity characteristic remains between the disputants.

Table 1.8. The contiguity of the bilateral disputants during 1948-2016

Income classification of complainant GATT/WTO	GATT (1948-1994)			WTO (1995-2016)		
	Non-Contiguous	Contiguous	Total	Non-Contiguous	Contiguous	Total
L	27 (96%)	1	28	134 (99%)	1	135
LM	106 (99%)	1	107	458(98%)	7	465
UM	125 (98%)	2	127	676(95%)	32	708
H	452 (94%)	21	473	2616(97%)	71	2687
Total	710 (97%)	25	735	3884(97%)	111	3995

The next figure, Figure 1.3, shows that, irrespective of the era and the income level, the complainants have, in most of the cases, no colonial connection with the respondent country.

Figure 1.3. Colonial connection between the disputants



1.3.4) Economic integration

Figure 1.4 is a pie chart that exhibits the extent of economic integration between the disputants. It illustrates that 73% of the bilateral pairs that have been disputants during the period under study have no economic agreement between them. Furthermore, it shows that, although the percentage of disputants with no economic agreement varies per income classification, most of the disputants have no economic agreement irrespective of the income classification of the complainant.

1.3.5) Tariffs , political system and plurality

For brevity reasons the results and figures related to Tariffs (Figure 1.5), political system (Figure 1.6) and plurality (Figure 1.7) are placed in the appendix 2.

Summarizing, we have attempted to characterize the disputants during the GATT and the WTO with the help of various dimensions. To recap, Table 1.9 provides an overview of the main findings from the tables and graphs in this section. The next section discusses important results.

Figure 1.4. Economic integration between the disputants

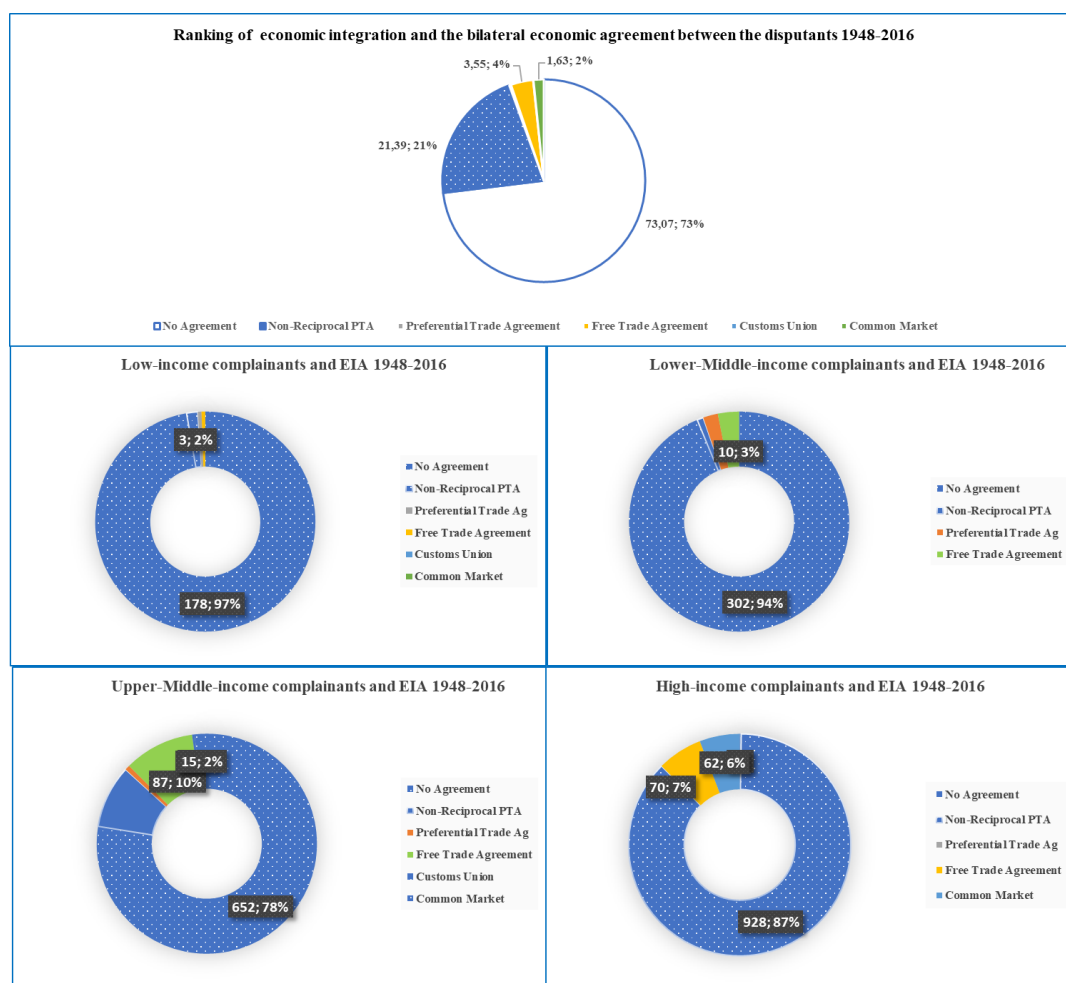


Table 1.9. Summary of main findings from tables and figures

Figure/table	Description	Result GATT: 1948-1994	Result WTO: 1995-2016
Table 1.2	Active participation rate (quadrant 2 =active members/ total members)	17.9 % (23 out of 128 members)	20.7 % (34 out of 164 members)
Table 1.3	Inactive rate (Q4= non-active members/ total members)	64.8 % (83 out of 128 members)	59.1 % (97 out of 164 members)
Table 1.4	First four front runner countries	USA, EU, Canada, Brazil	Same as under the GATT
Table 1.5	Income status and general participation of Lower income countries	5.4% (7 out of 128 members)	9.7% (16 out of 164 members)
Table 1.5	Total counties participation (including WTO third party)	34% (44 countries out of 128 members)	62% (102 countries out of 164 members)
Table 1.6	Who complained against whom: disputes by Lower income members as dispute initiators	19,2% (34 out of 177 bilateral disputes)	36.5% (200 out of 548 bilateral disputes)
Table 1.7	Who complained against whom: Lower income members as respondents	3,4% (6 out of 177 bilateral disputes with EU one entity)	18% (101 out of 548 bilateral disputes)
Figure 1.1	Continents and active members	Asian members participation 31%	Asian members participation 40%
Table 1.7	Continents and complainants	3 African complainants	No African dispute initiators
Table 1.8	Contiguity and disputant pair	97% Non-Contiguous bilateral disputants	Same as under the GATT
Figure 1.1	Colonial connection and disputant pair	Majority of the disputants no colonial connection	Same as under the GATT
Figure 1.2	Economic integration and disputant pair	No economic agreement between disputants irrespective of the income classification of the complainant.	Same as under the GATT
Figure 1.3	Tariff rates and disputant pair	High-income complainants raise dispute against a country with an equal tariff	High-income dispute initiators raise dispute against a country with a higher tariff
Figure 1.4	Political system and complainant	Lower income countries with presidential political system were the dispute initiators	Low and high-income countries with parliamentary system initiate the dispute in majority cases
Figure 1.5	plurality and complainant	Lower income countries with non-plurality were the dispute initiators	Across all income classification, majority of complainants are plurality

1.5) Discussion and Conclusion

With the WTO being a member driven organization, the question addressed in this paper is fundamental for assessing the extent of inclusiveness of the WTO members in the DSU process. The paper answers the question related to the extent of participation of the members under the WTO with respect to its predecessor, the GATT, with reference to the income status of the member countries as the disputants during the period 1948-2016. The database consists of 725 initiated disputes comprising 4759 bilateral pairs. The paper uses descriptive techniques to present stylized features of the data on disputes which helps to ascertain the extent of participation of low-income countries.

Based on the descriptive analysis, it can be concluded that the least developed members do not use the system. The idea of WTO a global public good needs to put some extra efforts to align the members belonging to lower-income countries. A few observations regarding the participation of the members are summed up as follows:

- A marginal increase in the number of complaints by the lower-income countries under the WTO with respect to the GATT and yet the disputes against the lower-income countries have increased sharply under the WTO.
- Widespread use of a third party role by low-income countries
- The absence of African countries as dispute initiators during the WTO

The WTO reiterated in 2012 in a report that “Developing countries should be encouraged to use the WTO dispute settlement mechanism, ... to ensure the continued good functioning of the system and to make it more effective and operational for them”. The establishment of the Advisory Council on WTO Law (ACWL) was a step to address this problem. The ACWL was established in 2001 with a mission to provide developing countries and less developed countries (LDCs) with the legal capacity necessary to enable them to take full advantage of the opportunities offered by the WTO. Hoekman et al. (2008) noted that the ACWL should have increased the participation of the developing countries, implying that the results were otherwise.

Aim of ACWL³⁵ is to provide free advice in all legal matters to the developing countries and it assists in dispute settlement proceedings at a reduced tariff. The role of ACWL becomes active only after a developing country to take initiative of dispute initiation. However, it should be noted that the decision of a dispute initiation can be taken only when a country identifies potential trade dispute. In other words, only when a member country identifies a breach of WTO law. The developing countries by definition have capacity constraint.

As noted earlier by a few scholars, the capacity constraints of various types faced by developing countries may result in a fewer number of cases brought to the DSB by them (Hoekman, Bank, & Horn, 2008). Busch, Reinhardt, & Shaffer (2009) conducted a study among the WTO members to answer whether the members had relied on the services of the ACWL for legal representation. They concluded that the developing countries face twofold problems, i.e., one at the home front and another at Geneva. The problem at the home front occurs due to a lack of support from the home capital or lack of coordination between ministries in the home capital. The problem surfaces at Geneva in the form of lack of

³⁵ 44 least developed countries are entitled to services of ACWL without becoming a member. Two third of the active developing countries , to be precise 36 countries, have become member of the ACWL(ACWL accessed January 10th from <https://www.acwl.ch/members-introduction/>).

experience, expertise, personnel, and legal knowledge. A digitization process of filing dispute could be an answer to this where no physical presence in Geneva is required.

An involvement in a dispute as a third party was expected to provide some experience in the WTO procedure. It would provide countries without experience an ability to practice the DSB procedure and to learn by observing so that the ‘third party countries today’ can actively participate as ‘complainant countries tomorrow’. The explicit and official role of a third party³⁶ in the dispute process opens a new opportunity for participation. It is to be noted that, for a country to join as a third party member in a dispute requires official acceptance by the respondent. In the event of non-acceptance, third parties will receive the parties’ first written submissions and present their views orally to the panel during the first substantive meeting (Article 10.3 of the DSB). Third parties have no rights beyond these, although a panel can extend the rights of participation of third parties in individual cases. This may suggest re-examining and redefining the role of these parties which may involve providing their members with some rights. These extended rights may prove to be useful for them to receive benefits from the panel ruling³⁷. A decision of non-participation by developing countries may be to save their scarce resources; as for whether they are active or passive, the countries in the same income bracket face the same trade barriers abroad (Bermann & Mavroidis, 2007). There is a significant increase in the number of active members under the WTO, especially after considering the participation as a third party country. However, without considering the role of a third party, the results show that there is only a marginal increase in the participation of the lower-income members³⁸. Enhanced third party rights are not automatically imbedded in the procedure but are provided on case to case basis, they cannot make additional claim. A amendment in this could go a long way to take that extra step from third-party to a claimant.

The absence of African countries as complainants at the WTO contrasts with the GATT. Under the GATT, there were three different African countries, i.e., Malawi, South Africa, and

³⁶ A few cases in which the respondent was alleged to have offered excessive import protection relative to liberalization gains being extended to the complainant have also been extended to third country exporters, which is consistent with a functioning principle of equity embodied in the MFN rule (Bown, 2009)

³⁷ There is a difference between “substantial trade interest” that is required for third parties in consultations and “substantial interest” before the panel. Most significant is the fact that it is possible to join consultations only with the respondent’s acceptance (and, in the case of non-acceptance, there is no recourse to enforce participation). On the other hand, any member who invokes a systemic interest, in practice, is admitted to a panel procedure as a third-party without any scrutiny whether the interest truly is “substantial” (WTO DSU process).

³⁸ As shown in Table 5, the income status and role under the GATT (1948-1994) and the WTO (1995-2016) in an earlier section, an increase from 35% under the GATT to 41% under the WTO. During 1995-2014, 5% of the disputes were initiated by the seven countries with an L³⁸ status. These countries are Bangladesh, Honduras India, Indonesia, Pakistan, Sri Lanka, and Nicaragua. The countries with an LM status accounted for 14% of the initiated disputes. During the GATT, the L and LM countries together launched 17% of the total 153 bilateral disputes. The countries with an L status that initiated disputes were, among others Cuba, Malawi, Nicaragua, Pakistan, and Zimbabwe.

Zimbabwe, that took an initiative to file a dispute³⁹. In a survey by Laker (2013) among the African resident representatives in Geneva, it was pointed out that 55 % of the respondents mentioned that they had no legal capacity, and only ten of Africa's resident representatives (44%) had legal capacities. The absence of Africa as a complainant could also partly be explained by the pact between the US and Africa. The African Growth and Opportunities Act (AGOA)⁴⁰ reports that a few disputes have been resolved between the US and African countries, however, the records are not openly accessible.

Out of 44 African members, as many as 18 countries have participated as a third party country in several disputes. The expectation that the third party role to function as a stepping stone to build the necessary expertise and capacity has not worked out to an extent to induce them to take a step ahead to initiate a dispute under the WTO. The lack of experience, expertise, and skills is not necessarily a valid argument for the absence at the DSU. The results show necessity to activate the poorer members of the WTO. The necessity of physical presence in Geneva may get reduced if the digitization process to file a dispute could be made available, where a member could file a dispute from its own capital city. Policy wise it can be concluded that an extended role of ACWL, enlargement of rights to third party for example as claimant, digitization could be a few suggestions to increase accessibility, keeping the members active to the relevant issues of the WTO.

This analysis with the use of dimension in gravity model of bilateral trade shows that, in spite of the formalization of the DSU procedure, the dispute initiation shows some economic characteristics. This global public good shows that characteristics of an economic good, to be specific of normal good, whereby higher the income, higher utilization of good is observed. This by nature indicates exclusion of the developing and least-developed countries and needs further formal theoretical and empirical analysis for a sophisticated formulation of policy.

³⁹ All after post-independence era. Malawi vs US in 1967, South Africa 1985 vs Canada, and Zimbabwe, as one of the nine complainants vs US in 1994.

⁴⁰ <https://agoa.info>. The AGOA is a United States Trade Act enacted on 18 May 2000 as Public Law 106 of the 200th Congress. The AGOA has since been renewed to 2025. As of December 2016, it is extended to 37 SSA countries, to 1,800 tariff line products in addition to 4600 duty-free products under the US Generalized system of preferences program (GSP) program. It includes import sensitive products like apparel, footwear, watches, handbags, and luggage (USAID).

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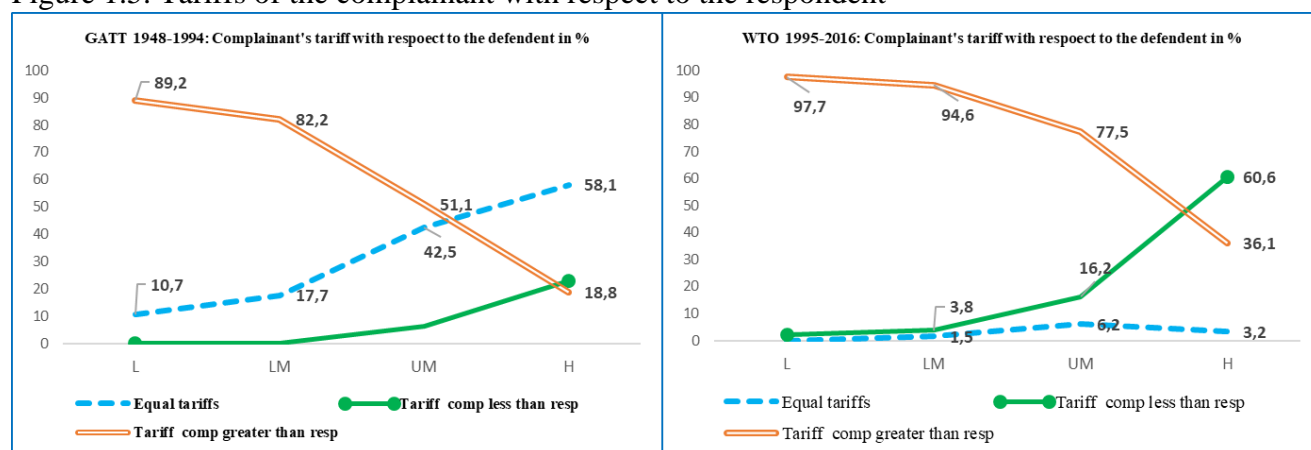
Appendix 1: List of members with accession dates

1	Afghanistan 29 July 2016	84	Liechtenstein 1 September 1995 (GATT: 29 March 1994)
2	Albania 8 September 2000	85	Lithuania 31 May 2001
3	Angola 23 November 1996 (GATT: 8 April 1994)	86	Luxembourg 1 January 1995 (GATT: 1 January 1948)
4	Antigua and Barbuda 1 January 1995 (GATT: 30 March 1987)	87	Macao, China 1 January 1995 (GATT: 11 January 1991)
5	Argentina 1 January 1995 (GATT: 11 October 1967)	88	Madagascar 17 November 1995 (GATT: 30 September 1963)
6	Armenia 5 February 2003	89	Malawi 31 May 1995 (GATT: 28 August 1964)
7	Australia 1 January 1995 (GATT: 1 January 1948)	90	Malaysia 1 January 1995 (GATT: 24 October 1957)
8	Austria 1 January 1995 (GATT: 19 October 1951)	91	Maldives 31 May 1995 (GATT: 19 April 1983)
9	Bahrain, Kingdom of 1 January 1995 (GATT: 13 December 1993)	92	Mali 31 May 1995 (GATT: 11 January 1993)
10	Bangladesh 1 January 1995 (GATT: 16 December 1972)	93	Malta 1 January 1995 (GATT: 17 November 1964)
11	Barbados 1 January 1995 (GATT: 15 February 1967)	94	Mauritania 31 May 1995 (GATT: 30 September 1963)
12	Belgium 1 January 1995 (GATT: 1 January 1948)	95	Mauritius 1 January 1995 (GATT: 2 September 1970)
13	Belize 1 January 1995 (GATT: 7 October 1983)	96	Mexico 1 January 1995 (GATT: 24 August 1986)
14	Benin 22 February 1996 (GATT: 12 September 1963)	97	Moldova, Republic of 26 July 2001
15	Bolivia, Plurinational State of 12 September 1995 (GATT: 8 September 1990)	98	Mongolia 29 January 1997
16	Botswana 31 May 1995 (GATT: 28 August 1987)	99	Montenegro 29 April 2012
17	Brazil 1 January 1995 (GATT: 30 July 1948)	100	Morocco 1 January 1995 (GATT: 17 June 1987)
18	Brunei Darussalam 1 January 1995 (GATT: 9 December 1993)	101	Mozambique 26 August 1995 (GATT: 27 July 1992)
19	Bulgaria 1 December 1996	102	Myanmar 1 January 1995 (GATT: 29 July 1948)
20	Burkina Faso 3 June 1995 (GATT: 3 May 1963)	103	Namibia 1 January 1995 (GATT: 15 September 1992)
21	Burundi 23 July 1995 (GATT: 13 March 1965)	104	Nepal 23 April 2004
22	Cabo Verde 23 July 2008	105	Netherlands 1 January 1995 (GATT: 1 January 1948)
23	Cambodia 13 October 2004	106	New Zealand 1 January 1995 (GATT: 30 July 1948)
24	Cameroon 13 December 1995 (GATT: 3 May 1963)	107	Nicaragua 3 September 1995 (GATT: 28 May 1950)
25	Canada 1 January 1995 (GATT: 1 January 1948)	108	Niger 13 December 1996 (GATT: 31 December 1963)
26	Central African Republic 31 May 1995 (GATT: 3 May 1963)	109	Nigeria 1 January 1995 (GATT: 18 November 1960)
27	Chad 19 October 1996 (GATT: 12 July 1963)	110	Norway 1 January 1995 (GATT: 10 July 1948)
28	Chile 1 January 1995 (GATT: 16 March 1949)	111	Oman 9 November 2000
29	China 11 December 2001	112	Pakistan 1 January 1995 (GATT: 30 July 1948)
30	Colombia 30 April 1995 (GATT: 3 October 1981)	113	Panama 6 September 1997
31	Congo 27 March 1997 (GATT: 3 May 1963)	114	Papua New Guinea 9 June 1996 (GATT: 16 December 1994)
32	Costa Rica 1 January 1995 (GATT: 24 November 1990)	115	Paraguay 1 January 1995 (GATT: 6 January 1994)
33	Côte d'Ivoire 1 January 1995 (GATT: 31 December 1963)	116	Peru 1 January 1995 (GATT: 7 October 1951)
34	Croatia 30 November 2000	117	The Philippines 1 January 1995 (GATT: 27 December 1979)
35	Cuba 20 April 1995 (GATT: 1 January 1948)	118	Poland 1 July 1995 (GATT: 18 October 1967)
36	Cyprus 30 July 1995 (GATT: 15 July 1963)	119	Portugal 1 January 1995 (GATT: 6 May 1962)
37	The Czech Republic 1 January 1995 (GATT: 15 April 1993)	120	Qatar 13 January 1996 (GATT: 7 April 1994)
38	The Democratic Republic of the Congo 1 January 1997	121	Romania 1 January 1995 (GATT: 14 November 1971)
39	Denmark 1 January 1995 (GATT: 28 May 1950)	122	Russian Federation 22 August 2012
40	Djibouti 31 May 1995 (GATT: 16 December 1994)	123	Rwanda 22 May 1996 (GATT: 1 January 1966)
41	Dominica 1 January 1995 (GATT: 20 April 1993)	124	Saint Kitts and Nevis 21 February 1996 (GATT: 24 March 1994)
42	Dominican Republic 9 March 1995 (GATT: 19 May 1950)	125	Saint Lucia 1 January 1995 (GATT: 13 April 1993)
43	Ecuador 21 January 1996	126	Saint Vincent & the Grenadines 1 January 1995 (GATT: 18 May 1993)
44	Egypt 30 June 1995 (GATT: 9 May 1970)	127	Samoa 10 May 2012
45	El Salvador 7 May 1995 (GATT: 22 May 1991)	128	Saudi Arabia, Kingdom of 11 December 2005
46	Estonia 13 November 1999	129	Senegal 1 January 1995 (GATT: 27 September 1963)
47	European Union (formerly European Communities) 1 January 1995	130	Seychelles 26 April 2015
48	Fiji 14 January 1996 (GATT: 16 November 1993)	131	Sierra Leone 23 July 1995 (GATT: 19 May 1961)
49	Finland 1 January 1995 (GATT: 25 May 1950)	132	Singapore 1 January 1995 (GATT: 20 August 1973)
50	France 1 January 1995 (GATT: 1 January 1948)	133	Slovak Republic 1 January 1995 (GATT: 15 April 1993)
51	Gabon 1 January 1995 (GATT: 3 May 1963)	134	Slovenia 30 July 1995 (GATT: 30 October 1994)
52	The Gambia 23 October 1996 (GATT: 22 February 1965)	135	Solomon Islands 26 July 1996 (GATT: 28 December 1994)
53	Georgia 14 June 2000	136	South Africa 1 January 1995 (GATT: 13 June 1948)
54	Germany 1 January 1995 (GATT: 1 October 1951)	137	Spain 1 January 1995 (GATT: 29 August 1963)
55	Ghana 1 January 1995 (GATT: 17 October 1957)	138	Sri Lanka 1 January 1995 (GATT: 29 July 1948)
56	Greece 1 January 1995 (GATT: 1 March 1950)	139	Suriname 1 January 1995 (GATT: 22 March 1978)
57	Grenada 22 February 1996 (GATT: 9 February 1994)	140	Swaziland (now eSwatini) 1 January 1995 (GATT: 8 February 1993)
58	Guatemala 21 July 1995 (GATT: 10 October 1991)	141	Sweden 1 January 1995 (GATT: 30 April 1950)
59	Guinea 25 October 1995 (GATT: 8 December 1994)	142	Switzerland 1 July 1995 (GATT: 1 August 1966)
60	Guinea-Bissau 31 May 1995 (GATT: 17 March 1994)	143	Chinese Taipei 1 January 2002
61	Guyana 1 January 1995 (GATT: 5 July 1966)	144	Tajikistan 2 March 2013
62	Haiti 30 January 1996 (GATT: 1 January 1950)	145	Tanzania 1 January 1995 (GATT: 9 December 1961)
63	Honduras 1 January 1995 (GATT: 10 April 1994)	146	Thailand 1 January 1995 (GATT: 20 November 1982)
64	Hong Kong, China 1 January 1995 (GATT: 23 April 1986)	147	The former Yugoslav Republic of Macedonia (FYROM) 4 April 2003
65	Hungary 1 January 1995 (GATT: 9 September 1973)	148	Togo 31 May 1995 (GATT: 20 March 1964)
66	Iceland 1 January 1995 (GATT: 21 April 1968)	149	Tonga 27 July 2007
67	India 1 January 1995 (GATT: 8 July 1948)	150	Trinidad and Tobago 1 March 1995 (GATT: 23 October 1962)
68	Indonesia 1 January 1995 (GATT: 24 February 1950)	151	Tunisia 29 March 1995 (GATT: 29 August 1990)
69	Ireland 1 January 1995 (GATT: 22 December 1967)	152	Turkey 26 March 1995 (GATT: 17 October 1951)
70	Israel 21 April 1995 (GATT: 5 July 1962)	153	Uganda 1 January 1995 (GATT: 23 October 1962)
71	Italy 1 January 1995 (GATT: 30 May 1950)	154	Ukraine 16 May 2008
72	Jamaica 9 March 1995 (GATT: 31 December 1963)	155	United Arab Emirates 10 April 1996 (GATT: 8 March 1994)
73	Japan 1 January 1995 (GATT: 10 September 1955)	156	The United Kingdom 1 January 1995 (GATT: 1 January 1948)
74	Jordan 11 April 2000	157	The United States of America 1 January 1995 (GATT: 1 January 1948)
75	Kazakhstan 30 November 2015	158	Uruguay 1 January 1995 (GATT: 6 December 1953)
76	Kenya 1 January 1995 (GATT: 5 February 1964)	159	Vanuatu 24 August 2012
77	Korea, Republic of 1 January 1995 (GATT: 14 April 1967)	160	Venezuela, Bolivarian Republic of 1 January 1995 (GATT: 31 August 1990)
78	Kuwait, the State of 1 January 1995 (GATT: 3 May 1963)	161	Vietnam 11 January 2007
79	Kyrgyz Republic 20 December 1998	162	Yemen 26 June 2014
80	Lao People's Democratic Republic 2 February 2013	163	Zambia 1 January 1995 (GATT: 10 February 1982)
81	Latvia 10 February 1999	164	Zimbabwe 5 March 1995 (GATT: 11 July 1948)
82	Lesotho 31 May 1995 (GATT: 8 January 1988)		(Source WTO website accessed April 2017)
83	Liberia — 14 July 2016		

Appendix 2 : Results tariff, political system and plurality

Figure 1.5 shows whether the level of simple weighted average tariff of the complainant country with respect to the respondent country is higher, lower, or equal to the respondent country. It exhibits that, under the GATT, 89,2% of the low-income countries that initiated a dispute had a higher tariff than that of a respondent. That percentage diminishes as one moves along the higher income category during the GATT period. The percentage of disputes against a lower-tariff country is seen to increase among all of the income categories of the complainants under the WTO. That percentage is as high as 97,7 for the low-income countries and, with 36,1 %, it is the lowest for the high-income countries.

Figure 1.5. Tariffs of the complainant with respect to the respondent



1.3.6) Political systems and plurality

Figure 1.6 shows that, for the non-high-income countries, a presidential form of political system has contributed to most of the disputes. In the way that DPI (2015) defines political systems, the presidential form could be considered as the most non-democratic. For the high-income complainants, the countries with a parliamentary system characterize the complainants during the GATT era. With the ushering in of the WTO era, the share of low-income complainants with the parliamentary system has increased to 73% of the total dispute initiations by the low-income countries.

Figure 1.6 also shows that, during the GATT, the dispute initiating lower-income member countries had a non-plural form of government. It indicates an absence of the influence of public opinion and pressure on the elected constituencies. Under the WTO,

irrespective of income status, most of the cases are filed by member countries with a plurality form of government. However, the percentage of complainants with a plurality form of government diminishes as one moves to a higher income category from 97% for the low-income complainants to 64% for the high-income countries.

Figure 1.6. Political system and the complainants

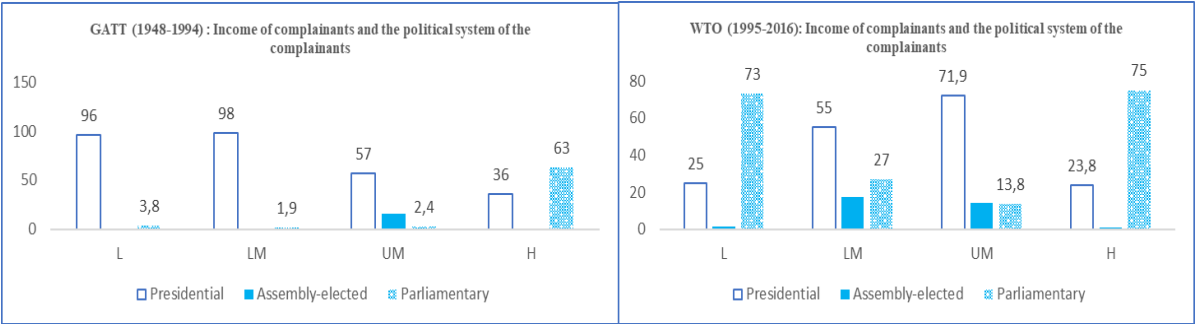


Figure 1.7. Plurality and the complainants

